

**BOARD OF APPEALS CASE NO. 5227**

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**BEFORE THE**

**APPLICANTS: Joseph & Bernetta Casseri**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to construct an attached garage within the required side yard setback; 1302 Mill Creek Road, Fallston**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 2/20/02 & 2/27/02**

**HEARING DATE: April 3, 2002**

**Record: 2/22/02 & 3/1/02**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicants, Joseph and Bernetta Casseri, are requesting a variance, pursuant to Section 267-35B, Table III, of the Harford County Code, to allow an attached garage within the required fifteen (15) foot side yard setback, total thirty-five (35) foot (three [3] foot side yard, total of twenty-five [25] feet proposed) in an RR/Rural Residential District.

The subject parcel is located at 1302 Mill Creek Road, Fallston, Maryland 21047 and is more particularly identified on Tax Map 48, Grid 2C, Parcel 391, Lot 25. The parcel consists of ½ acre, is zoned RR and is entirely within the Third Election District.

Mr. Joseph Casseri appeared and testified that he wants to construct a 21 foot by 26 foot garage that will be attached to his house. The garage will have a sub-basement that will be used for additional storage. The Applicant testified that there is no other practical location for a garage on his property due to the severe slope of his yard, which the witness described as sloping 7 to 12 feet to the rear of the house. The house is slightly angled to the street so there is more room to the left of the house (location proposed) than on the right. The house to the left is about 50 feet away and is a corner lot that, in the opinion of the witness, will not be impacted in any way by the reduced setback. That house also sits substantially to the rear of the Applicant's house. The Applicant further described the improvements on his property as including an in-ground pool and a pool house, children's playhouse and swing set, pond and formal garden. The lot to the rear of the subject parcel is heavily wooded. Septic lines are located to the rear of the house.

## **Case No. 5227 – Joseph & Bernetta Casseri**

The Department of Planning and Zoning recommends approval of the Application noting, “Based on shape and topography of the lot, the proposed location of the garage is the only practical area. The adjacent property to the ( lot 26 ) is a corner lot. The dwelling on that lot faces the intersection of Mill Creek Road and Groveton Court and is at least 50 feet away from the side property line of the subject lot. Further the house on Lot 26 sits substantially to the rear of the subject dwelling and should not be impacted by the reduced setback.

There were no persons who appeared in opposition to the subject request.

### **CONCLUSION:**

The Applicants, Joseph and Bernetta Casseri, are requesting a variance pursuant to Section 267-35B, Table III of the Harford County Code, to allow an attached garage within the required fifteen (15) foot side yard setback, total thirty-five (35) foot (three [3] foot side yard, total of twenty-five [25] feet proposed) in an RR/Rural Residential District.

The Harford County Code, pursuant to 267-11 permits variances and provides:  
“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

## **Case No. 5227 – Joseph & Bernetta Casseri**

The Hearing Examiner finds that the subject parcel is unique topographically. It is relatively small for an RR zoned property, only ½ acre compared to an average RR lot size in Harford County of closer to 2 acres. Additionally the house is angled to the road and closer to the right side of the property line than the left. To the rear very severe slopes prevent construction in that direction. The Applicant is asking to be allowed to construct a two-car garage, a common structure in Fallston and throughout Harford County. The only house that could be adversely impacted by the reduced setback is the dwelling on Lot 26 and it is sufficiently far enough away and placed to the rear of the Applicant's house that no adverse impact will result from the grant of the variance.

The Hearing Examiner, for the reasons stated recommends approval of the Applicant's request subject to the following conditions:

1. The Applicant obtain any and all necessary permits and inspections.
2. The garage shall not be used for the storage of commercial vehicles or contractor's equipment.
3. The garage shall not be used in furtherance of a business.

Date: APRIL 19, 2002

William F. Casey  
Zoning Hearing Examiner